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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/539,911 | 06/16/2005 | Eric Dietschi | 1325-5PCT/US | 8413 |
| Irving N Feit Hoffman & Baron 6900 Jericho Turnpike Syosset, NY 11791 | | | EXAMINER TAPOCAL, WILLIAM E | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3744 | |
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| | | | 10/15/2008 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/539,911

Applicant(s)

DIETSCHI ET AL.

Examiner

William E. Tapolcai

Art Unit

3744

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 8-45 is/are pending in the application.
- 4a) Of the above claim(s) 23-36 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9, 12, 15 and 18 is/are allowed.
- 6) ☒ Claim(s) 1-4, 8, 10, 11, 13, 14, 16, 17, 19-22 and 37-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 8, 10, 13, 16, 19-22, and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,140,824 to Hunt. Hunt in Fig. 2 discloses the claimed invention of a fluid cooling system comprising a primary heat exchange system 24, secondary heat exchange system 30, and a heat transfer agent for transferring heat energy between the two systems. The primary and secondary systems each comprise chambers (the spaces inside the two coils 24 and 30). Furthermore, the two chambers are clearly shown as being at least partially inside of one another.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4, 14, 17, and 38-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunt. Hunt discloses the claimed invention except for the arrangement of the primary and secondary heat exchange systems. The arrangement of the primary and secondary heat exchange systems is considered to be a matter of obvious choice, as to which system is inside of the other. No criticality or unexpected results are seen or have been disclosed for the recitation of the primary heat exchanger

being inside the secondary heat exchanger. Also, the provision of the coil wound around a wall is considered to be a well known expedient to one of ordinary skill in the heat exchange art. Furthermore, the provision of the reservoir 48 located above the chamber of the secondary heat exchange system is considered to be a matter of obvious choice. Finally, the type of fluid being cooled is considered to be a matter of obvious choice, as the recited fluids are all well known.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hunt in view of U.S. Patent No. 6,216,469 to Miller. Hunt discloses the claimed invention except for the thermostat. Miller teaches that it is old to control a heat exchange system with a thermostat 45 or 47 or 50. Thus, it would be obvious to provide Hunt with a thermostat, in view of Miller, to yield the predictable result that the primary heat exchange system is more accurately controlled.

6. Claims 42-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunt in view of U.S. Patent No. 4,916,910 to Schroeder. Hunt discloses the claimed invention except for the dispensing tap. Schroeder teaches a heat exchange system incorporating primary and secondary heat exchange systems and a dispensing tap 31, 32. Thus, it would be obvious to incorporate the heat exchange system of Hunt in a dispensing system that uses a dispensing tap, in view of Schroeder, to yield the predictable result that a consumable beverage is cooled.

7. Claims 9, 12, 15, and 18 are allowed.

8. Claims 23-36 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on August 30, 2007.
9. Applicant's arguments filed June 18, 2008 have been fully considered but they are not persuasive. As explained above, Hunt is considered to disclose the primary and secondary heat exchange systems that use the heat exchange coils 24 and 30. As is clearly shown in Fig. 2 of Hunt, the heat exchange coils 24 and 30 are depicted as being in the form of chambers, much like the coils of Applicant's invention.
10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William E. Tapolcai whose telephone number is (571) 272-4814. The examiner can normally be reached on Mon. - Thurs., 6:30 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl J. Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William E. Tapolcai/
Primary Examiner, Art Unit 3744

wet
September 2, 2008